THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.11968 OF 2006

DATED: 13th July, 2006.

Between :

Palle Myram Reddy … Petitioner

And

1. The District Collector and the Auctioning Authority, Kadapa an 2 others. .. Respondents

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WRIT PETITION NO.11968 OF 2006

ORDER :

This writ petition is filed seeking a declaration that the action of the respondents in rejecting the tender of the petitioner in respect of the Shop No.1 of K. Boyanapali, Rajampet Mandal, Kadapa District as arbitrary and illegal.

The 1st respondent herein issued a notification dated 27-5-2006 inviting tenders for grant of lease under Rule 5 of the Andhra Pradesh Excise (Grant of License of Selling by Bar and Conditions of Licence) Rules, 2005 (for short, 'the Rules') for sale of Indian Liquor and Foreign Liquor by shop in the areas/localities specified under the list annexed to the said notification for the period from 1-7-2006 to 30-6-2008. The petitioner herein had submitted his tender for Shop No.1 of K.Boyanapalli, Rajampet Mandal, Kadapa. The petitioner states that whereas the upset price for the said shop was fixed as Rs.19,06,656/-, he had offered Rs.21,78,666-99 ps. It is also stated that he had complied with all other requirements as specified in the tender notification and enclosed Rs.5,000/- towards application fee and Rs.1,20,000/- towards earnest money deposit. He was issued an entry pass on 2-6-2006 itself and the auction was scheduled to be conducted at 10.00 am on 3-6-2006 at Z.P. Meeting Hall, Kadapa. It is alleged that though he was waiting at the compound of Z.P.Meeting Hall, without making any announcement, the respondents had opened the tenders received for K. Boyanapalli shop and even before the petitioner could reach the hall, the 3rd respondent was declared as the

highest bidder after rejecting the tender of the petitioner. The petitioner alleges that since the 3rd respondent had quoted less than the offer made by the petitioner, the 2nd respondent in collusion with the 3rd respondent rejected the petitioner's tender without assigning any reasons. It is contended that the entire action of the respondents is arbitrary, illegal and contrary to the procedure prescribed under the statutory rules. In the circumstances, the petitioner made a representation on 6-6-2006 to the 1st respondent with copies marked to the Commissioner of Prohibition & Excise and Deputy Commissioner of Prohibition & excise, Chittoor. However, there was no response and the respondents 1 and 2 have been taking steps to grant licence in favour of the 3rd respondent. Hence, this writ petition.

On behalf of the respondents, a counter-affidavit has been filed stating that though it is a fact that the petitioner had offered Rs.21,78,666-99 ps and complied with the other requirements, he did not make himself available in the auction hall on 3-6-2006 in spite of the public announcement made through mike. In the circumstances, the auctioning authority after waiting for 10 minutes declared the 3rd respondent as the successful bidder since he was the 2nd highest tenderer. The auctioning authority had recorded in the confirmation register that the petitioner though quoted Rs.21,78,666-99 ps was not present when the names were announced. The other allegations made by the petitioner have been categorically denied and it is stated that the 3rd respondent was declared as the successful bidder following due process of law and the licence in Form-A4 was issued to him on 17-6-2006 much prior to the receipt of notice in this writ petition.

I have heard the learned Counsel for the petitioner and the learned Government Pleader appearing for the respondents 1 and.

Though the plea of the petitioner that he had offered Rs.21,78,666/-, whereas the 3rd respondent had quoted a sum of

Rs.21,75,000/- is not in dispute, the specific case of the respondents is that the petitioner was not present in the auction hall when the tenders were opened in spite of the public announcement made.

The petitioner filed an affidavit in Reply that the tenders in respect of the shop in question were opened without announcing the name of the village and that he was sitting just opposite to the auction hall.

The rival claims made by the parties being pure questions of fact cannot be enquired into and no finding as such can be recorded by this Court as to what actually transpired on the spot.

As can be seen from the counter-affidavit, the auctioning authority had recorded in the confirmation register as under :

> *"Pall Myram Reddy, S/o. Subramanyam Reddy has quoted Rs.21,78,666/- for Gazette Sl.No.149 along with (2) T. Gangaiah, S/o. Penchalaiah who quoted Rs.21,75,000/-. But Sl.No.1 was not present when the names were announced. After giving 10 minutes time and as there was protest from the other bidder, Sl.No.2 has been announced as per rules given."*

Even as per the version of the petitioner he was not present in the auction hall when the tenders were opened.

It is also relevant to note that whereas the tenders were opened on 3-6-2006, the petitioner failed to raise any protest immediately and made a representation only on 6-6-2006 which raises a doubt as to the genuineness of the claim made by the petitioner that he was present and the respondents failed to announce the name of the village in question. It is also clear from the counter-affidavit that the tenders were opened in the presence of the responsible officers namely Revenue Divisional Officer, Special Deputy Collector, apart from the 2nd respondent. Hence, the vague allegation of collusion in the absence of any supporting material cannot be accepted.

Consequently, the action of the respondents 1 and 2 in declaring the 3rd respondent as the successful bidder and granting licence in his

favour cannot be found fault with.

Writ Petition is devoid of any merit and the same is accordingly dismissed. No costs.

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G. ROHINI, J.

Dt. 13-7-2006
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